No. 82-647-CSX
Status: DECIDED

Title: Donald J. Kirkpatrick, Petitioner
v.
Christian Homes of Abilene, Inc., et al.

Docketed:
October 12, 1982

Court: Court of Appeals of Texas,
Eleventh Supreme Judicial District

Counsel for petitioner: Lowry, Marcia Robinson

Counsel for respondent: Mattox, Jim, Myers, Charles E.

Entry	Date	Note	Proceedings and Orders
1	Oct 12 1982	G	Petition for writ of certiorari filed.
3	Oct 26 1982		Order extending time to file response to petition until November 29, 1982.
4	Nov 26 1982		Brief of respondents Christian Homes, et al. in opposition filed.
5	Dec 1 1982		DISTRIBUTED. January 7, 1983
6	Dec 27 1982	X	Reply brief of petitioner Donald J. Kirkpatrick filed.
7	Dec 23 1982		Record filed.
8	Dec 23 1982		Certified original transcript of record received.
10	Jan 10 1983		REDISTRIBUTED. January 14, 1983
11	Jan 17 1983		Petition GRANTED.
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12	Feb 17 1983		Joint appendix filed.
13	Feb 17 1983		Brief of petitioner Donald J. Kirkpatrick filed.
14	Feb 25 1983	G	Motion of petitioner to direct the Clerk to schedule oral argument during April, 1983 filed.
16	Feb 28 1983		DISTRIBUTED. March 4, 1983. (Above motion)
18	Mar 17 1983		Brief of respondent State of Texas filed.
19	Mar 21 1983		Motion of petitioner to direct the Clerk to schedule oral argument during April, 1983 GRANTED.
21	Mar 25 1983		Brief amicus curiae of Natl. Center on Women & Family Law, et al. filed.
22	Mar 24 1983		CIRCULATED.
23	Mar 25 1983		Brief amicus curiae of Natl. Coun. For Adoption, Inc. filed.
24	Mar 31 1983	D	Motion of Texas for divided argument filed.
25	Mar 31 1983	X	Brief of respondent Christian Homes, et al. filed.
26	Apr 4 1983		Motion of Texas for divided argument DENIED.
27	Apr 5 1983		Petitioner directed to file typewritten memorandum by noon April 8, 1983 responding to question in Clerk's ltr.
28	Apr 8 1983		Petitioners response as requested by the Court received.
29	Apr 12 1983		Adjudged to be VACATED and REMANDED The Court has considered the memorandum filed by petitioner in response to the representations of the State of Texas in its brief before this Court which bring to light a question of state law not passed upon or relied upon below. The resolution of this question may establish that petitioner is entitled to the relief he seeks as a matter of Texas statutory law. If this is so, a decision of the constitutional question on which we granted certiorari would be unnecessary. See Paschall v. Christie-Stewart, 414 U.S. 100 (1973); Musser v. Utah, 333 U.S. 95 (1948). Accordingly, the judgment of the Court of Appeals of Texas, Eleventh Supreme Judicial District, is vacated and the case is remanded to that Court for further proceedings to determine whether, under Texas law, petitioner could have obtained and may still obtain a decree designating him as the father of his child pursuant to the provisions of Texas Family Code Sections 13.01 - 13.09. The Clerk is directed to issue the mandate forthwith.
30	Apr 14 1983		Mandate issued.